

TE HOUHANGA RONGO  
A PATH TO HEALING

Principles and procedures  
in responding to complaints  
of sexual abuse  
by Clergy and Religious  
of the Catholic Church in New Zealand

**2007**

**with amendments  
as at 2010**

## INTRODUCTION

As bishops and leaders of religious congregations of the Catholic Church in New Zealand, we acknowledge with deep sadness and regret that a number of clergy and religious have sexually abused children, adolescents and adults who have been in their pastoral care. To these victims we offer our sincere apology.

In seeking a path towards healing, we are publishing this document of principles and procedures. The first part gives the principles that must form the basis of the Church's response to complaints of sexual abuse. The second part describes the structures to be put in place in each diocese to respond to allegations of sexual abuse and the procedures to be followed. The document includes a handbook containing detailed guidelines for the committees who will be responsible for responding to allegations of sexual abuse made against clergy and religious.

The procedures and guidelines contained in this document describe the approach which will normally be taken when complaints are referred to church authorities. There may be special circumstances when the procedures and guidelines cannot be followed exactly as indicated. However, the principles forming the basis of the procedures should always be followed.

We realise that this document will be credible only to the extent that its provisions are put into effect and are seen to address the issue of sexual abuse in the Church effectively and with real compassion.

We see it as a public document that establishes public criteria according to which the community may judge the resolve of church leaders to address the issues fairly and compassionately. If we do not act according to the principles of this document and follow procedures founded on these principles, we shall have failed according to our own criteria.

This document is not meant to be the last word on how to address the issues which have been raised. Rather it is a "living" document, to be developed and improved as experience and practice dictate. The document was adopted in 1993 and has been substantially reviewed twice since then after extensive consultation with sexual abuse protocol committees and other people. We also take note of world wide research and excellent publications from people involved in dealing with similar issues. We invite all interested persons in the community to work together to find ways to respond effectively to the evil of sexual abuse within the Church.

## FOREWORD

At the annual meeting of the Bishops and Congregational Leaders of Aotearoa New Zealand held in Wellington 1-3 March 1998 *Te Houhanga Rongo – A Path to Healing* was accepted and approved for a period of three years after which time it was to be reviewed.

That review took place and the second edition of *Te Houhanga Rongo – A Path to Healing* was accepted for a five year period which has now expired.

A further review has now been completed. The process of review involved consultation with all members of the Abuse Protocol Committees from the six dioceses and the Congregations which have committees. Any suggested amendments were incorporated into a revision which was then sent out for further consideration. This process was repeated several times to ensure that consultation was thorough.

Generally, people had found that it was a good working document but some areas could be improved particularly with regard to historical complaints which were often very difficult to resolve.

The emphasis has remained on ensuring that a compassionate response is made to complainants and other parties. At the same time, a thorough investigation is required to ensure that the final outcome is fair, considerate and appropriate to all parties.

The National Office For Professional Standards accepted responsibility for consultation and co-ordinating the responses and suggestions. Then, the National Professional Standards Committee contributed to the review and recommended it to the Bishops and Congregational Leaders.

On behalf of the National Professional Standards Committee, the Bishops Conference and Congregational Leaders, I wish to acknowledge and thank all those who have made suggestions and contributed to this review.

It is our sincere hope that the processes outlined in *Te Houhanga Rongo – A Path to Healing* will enable swift and compassionate responses to allegations of sexual abuse.

With sincere thanks to all who contributed in any way.

**† John A Dew**

**On behalf of Bishops Conference and Congregational Leaders**

## **PART ONE**

### **PRINCIPLES FOR DEALING WITH COMPLAINTS OF SEXUAL ABUSE**

**The Catholic Church's response to sexual abuse by clergy and religious must be founded on an acknowledgement of the wrong which has been done to those who have suffered from the abuse.**

1. It must be informed by an understanding of the hurt which such abuse imposes and of the long-term harm it may cause. It must also be characterised by compassion and a recognition that the Church community must do whatever it can towards healing the hurt and repairing the harm. Sexual abuse can have a devastating and long lasting effect on the victim. It affects their relationships with others, the Church and with God. Those who have suffered in this way can experience fear, shame, confusion and the violation of their person. They can feel guilty, blame themselves and feel that they are the ones responsible for what has happened. Victims can suffer distortions in the process of determining their sexual identity, and even their identity as persons. Victims can go through a long period of silence and denial. Sometimes they are not believed when eventually they come to tell their story, and this can reinforce their sense of guilt and shame.
2. A compassionate response to the complainant must be the first priority in all cases of abuse. Complaints against clerics and religious must always be taken seriously. The person making the complaint must be heard sympathetically and sensitively. Even in cases where the complaint is mistaken or not sustainable, the person making the complaint must always be treated with compassion and respect.
3. We accept that the community expects of us a serious and ongoing role in seeking to ensure that offenders are held accountable for what they have done, come to a true appreciation of the enduring harm they have caused, seek professional help in overcoming their problems, and do whatever is in their power to make amends.
4. Whenever it has been established, either by admission or by proof, that sexual abuse did in fact take place, Church authorities will ensure that the victims are given the assistance demanded by justice and compassion.

Careful and sympathetic consideration should be given to any requests by victims, even if all requests cannot be met<sup>1</sup>.

5. We also recognise that other persons besides victims can also be seriously affected by incidents of sexual abuse or misconduct – the family of the victim, the family and colleagues of the offender, the parish, school community or agency in which the offender worked, and close friends. All these persons have different needs and should be offered appropriate assistance so that they can find healing and come to terms with what has happened.

**Any attempt to sexualise a pastoral relationship is a betrayal of trust, an abuse of authority, and professional misconduct.**

6. Clergy and religious are in a special position of trust and authority in relation to those who are in their pastoral care – for example, those in their parish, people seeking advice or counsel, or students at school.
7. Sexual abuse by clerics and religious is a betrayal of their calling to witness to the teachings of Christ and to serve others. It is a betrayal too of the Christian community which has entrusted them with particular authority and responsibility and which expects them to behave according to clearly defined moral standards.
8. Any form of sexual behaviour with a minor, whether child or adolescent, is always sexual abuse. It is both immoral and criminal.
9. Any form of sexual behaviour with an adult in a pastoral relationship is always wrong. The person seeking pastoral care is in a vulnerable position and any form of sexual behaviour by the cleric or religious is an abuse of power. Even when the adult seems to be a willing partner, it is the professional responsibility of the cleric or religious to guard the boundary against sexual abuse.
10. Whenever the offender is a cleric or religious, Church authorities accept that he or she has responsibility to seek to bring healing to the person who has suffered from the abuse and others who have been affected.

**In any inquiry the quest for the truth will be paramount, and the truth when found will not be hidden.**

11. Those making the inquiry must keep an open mind until the facts are established.

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<sup>1</sup> The procedures outlined in paragraph 5 ‘Bringing a Case to Resolution’ set out how this principle can be followed through

12. The receiving of a complaint and the investigation of a complaint should always be carried out with discretion and respect for confidentiality. Those who make a complaint should be assured of this and should be told explicitly who will need to be informed. All people involved should be sensitive to the safe-guarding of the reputations of the complainant/victim, the accused, and any other person involved directly or indirectly.
13. Any person accused of sexual abuse will always be treated fairly and with respect. While the accusation is being investigated his or her rights as a person and member of the Church community will be respected and every effort will be made to preserve his or her good name.
14. Any person accused of sexual abuse will be presumed innocent unless and until guilt is either admitted or otherwise established. If a cleric or religious is asked to step aside from the office he or she holds or the exercise of public ministry until the matter is resolved, it is to be clearly understood and stated that the person is on leave pending investigation/resolution of the complaint and that no admissions are implied by this fact alone. Unless and until guilt has been admitted or established, those accused should not be referred to as offenders or in any way treated as offenders.

**If guilt has been admitted or proved, the Church's response must be appropriate to the seriousness of what has happened. Serious offenders will not be given back the power they have abused.**

15. If guilt has been admitted or proved, offenders must take personal responsibility for their actions. They cannot expect the Church to "cover-up" their actions or simply transfer them out of the area.
16. If the offence is a crime in civil law and the complainant places the matter in the hands of the police, the Church authority will cease the investigation and will not do anything to protect the accused/offender from the processes of civil law nor hide the facts from those who are entitled to know them.
17. The Church authority will see to it that the accused receives proper legal assistance and advice.

**There is a potential for mistaken or unfounded accusations. Such accusations cause great stress for the individual concerned. Therefore every precaution should be taken to protect the good name of an accused while the investigation is continuing.**

18. If it is found that an accusation is mistaken or without foundation, positive steps should be taken to ensure that the person wrongly accused is completely cleared of any suspicion affecting his or her good name and

character, so that he or she may continue in his or her ministry or office without fear of causing scandal or arousing further suspicion.

- 19.** While the majority of priests and religious have never sexually abused anyone, they have, as a result of the actions of those of their colleagues who have abused, suffered a loss of morale and experienced a lessening of the trust and respect that was once given them. Confidence and trust need to be restored. A coherent and effective response by Church authorities to allegations of sexual abuse and misconduct will be an important element in that process.
- 20.** The whole Church community suffers when one of its members is guilty of sexual misconduct or abuse. It is a cause of shame and hurt to us all. It is also a call for all of us to work for justice and reconciliation, forgiveness and healing, and to make a strong commitment to work towards preventing such abuse from happening again.

## **PART TWO**

### **PROCEDURES FOR DEALING WITH COMPLAINTS OF SEXUAL ABUSE**

#### **1. INTRODUCTION**

- 1.1 This section of the document deals with procedures. It is to be implemented in the context of the previous section on principles.
- 1.2 These procedures are intended to apply to all complaints of sexual abuse by Church personnel, whether they be clerics or religious.
- 1.3 In applying these procedures, the penal and procedural provisions of the Code of Canon Law should be respected. It is up to the accused to initiate a Canonical Process if he or she wishes to do so.
- 1.4 If a complaint concerns a criminal offence, every precaution should be taken to ensure that implementation of these procedures will not interfere with or obstruct the operation of any relevant agency of the secular law. The most practical way to carry this out is to discontinue any enquiries or procedures until action by police or other civil authorities or any other legal procedures have been completed. The complainant should be advised of this. Retain all documents or records for future use. Ensure co-operation with police or other civil authorities in relation to lawful and reasonable requests. If there is any doubt as to what amounts to lawful and reasonable requests, seek legal advice.
- 1.5 A complaint of sexual abuse raises medical, psychological, spiritual, legal and practical questions. An appropriate response will, therefore, need to be based on a team approach.
- 1.6 **Diocesan and archive records**  
It is important to be able to access accurate diocesan and archive records relating to clergy and religious appointments, past and present. People responsible for maintaining and accessing records should check them for completeness and accuracy. All present and future records should be carefully maintained. In addition, accurate records of all personnel working in care giving roles within the church should be kept.

#### **2. DEFINITIONS**

- 2.1 The scope of the terms “sexual misconduct” and “sexual abuse” is very broad and often their meaning is not clear. Moreover, related terms are



often given different meanings in different contexts. In the interests of clarity the committee preparing this document found it useful to make the following distinctions and state clearly what is meant by certain important terms as they are used throughout this document. We find it helpful to differentiate between sexual misconduct and sexual abuse.

2.2 **Sexual misconduct** is any conduct of a sexual nature that is inconsistent with our witness to chastity but which does not necessarily involve an abuse of power or status – for example, misconduct with a freely consenting adult where there is not or has not been a professional or pastoral relationship.

2.3 **Sexual abuse** is any conduct of a sexual nature that is inconsistent with the public commitment to celibacy and duties and responsibilities of clerics and/or religious and which involves an abuse of power or status. It includes, for example, a sexual relationship with a parishioner or sexual relationship with a child or young person.

We find it helpful to further differentiate between sexual abuse which is **criminal abuse** and sexual abuse which is **non-criminal abuse**.

2.4 **Criminal abuse** is sexual conduct with a child, young person or adult which is unlawful under the criminal laws of New Zealand.

2.5 **Non Criminal abuse** is sexual abuse by a cleric or religious where there is or has been a pastoral or professional relationship but where the abuse is not contrary to the criminal laws of New Zealand.

2.6 **Accused** refers to the person against whom a complaint of sexual abuse is made.

2.7 **Chastity** refers to that virtue which all Christians are called to live by and give witness to (Canon 277, 672). This means in living a chaste life clerics and religious must:

- ➔ avoid actions or language that could be interpreted as sexually provocative;
- ➔ never seek to initiate sexual behaviour;
- ➔ reject any invitation to participate in sexual behaviour;
- ➔ avoid situations and relationships that place undue stress on one's ability to remain committed to the virtue of chastity.

2.8 **Church authority** refers to a diocesan bishop, or a leader of a religious institute, or their authorised representatives.

2.9 **Church body** refers to a diocese, a religious institute, or any other juridical person generally perceived to be part of the Catholic Church.

- 2.10 **Church personnel** includes any cleric or member of a religious institute or member of a society of apostolic life.
- 2.11 **Civil authorities** refers to members of the police service, as well as officials of the government departments responsible for social welfare and child protection, for the administration of laws relating to complaints of sexual harassment, for the discipline of professions, and for industrial relations.
- 2.12 **Cleric** refers to any person who has been ordained to the diaconate and incardinated into a diocese or religious institute or society of apostolic life<sup>2</sup>. Although it is recognised that a seminarian is not canonically a cleric before ordination to the diaconate, nevertheless for the purposes of this document, the term “cleric” includes a diocesan seminarian.
- 2.13 **Complainant** refers to the person who has alleged sexual abuse against a cleric or religious. In most but not all cases the complainant will also be the alleged victim, and this is to be understood in this document unless the context suggests otherwise.
- 2.14 **Delegate** refers to the officially appointed representative of the diocesan bishop or congregational leader when a committee is established who has authority to act on the bishop’s or congregational leader’s behalf in dealing with allegations of sexual abuse by clergy or religious.
- 2.15 **Offender** refers to a person who has admitted sexual misconduct or has had it proved against her/him<sup>3</sup>.
- 2.16 **Professional abuse** is the engaging by a professional in sexual behaviour with someone with whom they have a ministerial relationship such as priest with a member of his congregation, a counsellor with a client, a teacher with a student.
- 2.17 **Religious** refers to a member of a religious institute or a society of apostolic life recognised by the Catholic Church. For the purposes of this document it shall also include any person formally admitted into an institute’s programme of formation.
- 2.18 **Religious delegate** refers to the officially appointed representative of a congregational leader who has authority to act on the leader’s behalf when allegations of sexual abuse are made against a member of their congregation.
- 2.19 **Victim** refers to the person against whom the sexual abuse was directed.

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<sup>2</sup> Cf. Canon 266, # 1

<sup>3</sup> Cf. above, footnote 1.

2.20 **NOPS** refers to National Office for Professional Standards (Catholic).

### **3 STRUCTURES AND PERSONNEL**

#### **The Delegate<sup>4</sup>**

- 3.1 **Each diocesan bishop (or congregational leader if a committee is established) will appoint from within his diocese of congregation a delegate** who will act as his representative when an allegation of sexual abuse against a cleric or religious is received. It will be a particular responsibility of the delegate to see that the provisions of this document are observed in dealing with any complaints of this nature.
- 3.1.1 The choice of the delegate is a key decision. The delegate may be a man or a woman providing that he or she is able to establish rapport with complainants. This is particularly important where the delegate is also a contact person for complainants. Relevant attributes of a delegate include sensitivity, warmth of personality, approachability and capacity to listen sympathetically, lack of attitude of defensiveness, decisiveness, experience in interacting with people in a variety of situations and ability to facilitate meetings while dealing with tension. Some knowledge of Canon law is desirable and the delegate should have the confidence of the clergy and religious.
- 3.1.2 A deputy delegate should also be appointed who will have the same duties and functions as the delegate in the latter's absence or incapacity, or for any other sufficient reason.
- 3.1.3 If the complainant has initially contacted the church authority rather than the delegate, the church authority, with the complainant's agreement and understanding of the process will always pass the complaint on to the delegate to be dealt with by the Sexual Abuse Protocol Committee. If the complainant does not agree, the complaint cannot be formally investigated at this stage.
- 3.2 The identity of the delegate is to be made publicly known. The delegate should also make herself/himself known to the police and other social agencies concerned with the welfare of children.
- 3.3 The delegate should be authorised and directed by the bishop or congregational leader to respond as soon as possible whenever an allegation of sexual misconduct against a cleric or religious is received.
- 3.4 The delegate is responsible for seeing that all pastoral, legal and canonical obligations, as set out in this protocol document, are identified and acted

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<sup>4</sup> Further details concerning the role and responsibilities of the delegate are found in the Handbook.

- upon promptly. The delegate has responsibility for co-ordinating the response of the diocese or religious congregation to the complaint.
- 3.5 The delegate is to keep the bishop or congregational leader (in the case of a religious) informed at every stage of the proceedings when allegations of sexual misconduct are being dealt with.
  - 3.6 The delegate should also promote among the priests of the diocese awareness and understanding of the issues involved in sexual abuse, the effects it can have, and the professional boundaries that must be observed by those involved in pastoral ministry.
  - 3.7 The delegate will also be the convener of the Abuse Protocol Committee. The delegate shall convene and chair meetings as required, liaise with the Sexual Abuse Protocol Committees of other dioceses and individual church bodies and their professional advisers, have an overview of all matters dealt with by the committee, and be responsible for the safekeeping of all documentation connected with the committee.
  - 3.8 Each congregational leader should appoint someone from within the congregation to act as the **religious delegate** in cases where an allegation of sexual abuse is made against a member of the congregation. The religious delegate will have responsibilities within the congregation similar to those of the bishop's delegate within the diocese and will work in close liaison with the bishop's delegate in cases involving a member of the religious congregation. It will be the religious delegate's responsibility to keep the congregational leader informed at every stage of the proceedings.

### **Sexual Abuse Protocol Committee<sup>5</sup>**

- 3.9 Each diocesan bishop of the Catholic Church of New Zealand will establish and maintain a **Sexual Abuse Protocol Committee**. A congregational leader may establish an Abuse Protocol Committee or is urged to make use of the diocesan committee when needed. Normally, when the complainant and the accused live in separate dioceses the Sexual Abuse Protocol Committee of the diocese where the complainant lives will deal with the complaint.
- 3.10 This committee will have three principal functions:
  - (a) to receive the complaint and ensure that the allegation is investigated.

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<sup>5</sup> Further details concerning the composition and responsibilities of the Abuse Protocol Committee are found in the Handbook paragraph 2.

- (b) to ensure that the accused is advised the nature of the allegation and a response is invited to the allegations.
- (c) to make recommendations to the bishop or congregational leader with regard to the resolution of the complaint. See paragraph 5.15 for matters to be included in the recommendations.

- 3.11 The Sexual Abuse Protocol Committee should consist of a suitable number of persons, both men and women of diverse backgrounds, chosen for their expertise in areas related to matters concerning sexual abuse and misconduct and their appropriate analysis of power issues. Committee members should be approachable, have the capacity to listen sympathetically and deal sensitively with people who are stressed and emotionally overwhelmed. The committee must also include the bishop's delegate and in particular cases where the accused is a religious, the congregation's delegate. It also has the right to co-opt others with special expertise when the matter being dealt with requires it. The Handbook paragraph 2 contains more detailed guidelines on the composition of the committee.
- 3.12 Each committee shall ensure that, from among its own members or elsewhere, suitable persons, both men and women, are available to act as **contact persons**. They should be chosen for their capacity to listen sympathetically and deal sensitively with people who are stressed and emotionally overwhelmed. Each diocese is to have an advertised list of these persons whom anyone wishing to make a complaint may contact. These persons will ensure that the complainant is put in touch with the delegate (or deputy) or a member of the Sexual Abuse Protocol Committee (who will then inform the delegate).
- 3.13 Any person who becomes aware of an instance of sexual abuse involving a cleric or religious should refer that allegation to the appropriate church authority<sup>6</sup>.
- 3.14 Anonymous complaints are to be treated prudently. An anonymous complaint cannot have the full force of one made by an identified person, but it is recognised that anxiety and fear may persuade some complainants not to reveal their identity immediately.
- 3.15 Upon receipt of an identifiable complaint of sexual abuse the delegate (or in her/his absence the deputy) will as soon as possible<sup>7</sup> convene a meeting of the Abuse Protocol Committee who will deal with the matter. (in consultation with the National Director, NOPS)

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<sup>6</sup> Secular law in New Zealand does not at present require the mandatory reporting of complaints of child sexual abuse.

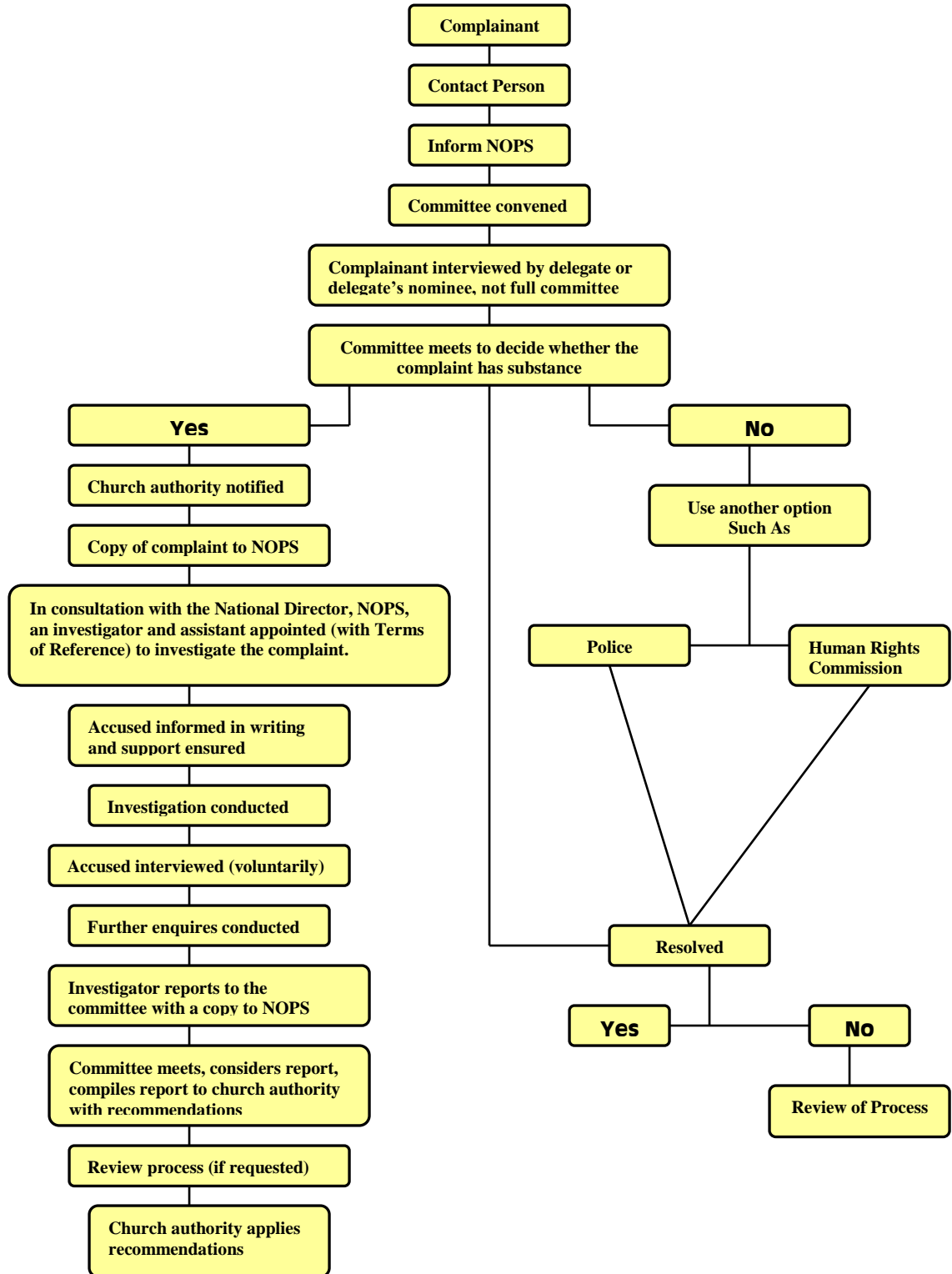
<sup>7</sup> Normally this should be within 48 hours, and certainly not beyond a week.

- 3.16 In the conduct of the process of investigation following the reception of a complaint, the committee must see to it that the following “functions” are carried out, usually by different persons:
- a) **Interview of the person making the complaint and/or victim.** This always requires a skilled person, especially when the victim is a child. If parents refuse the involvement of Child Youth and Family, the delegate will arrange the services of a skilled child interviewer.
  - b) **Ongoing support for the person making the complaint.** The committee will ensure that the complainant has a support person, who is not a member of the protocol committee. The support person will represent the needs of the complainant and assist, where appropriate, with the care of the complainant and with communication between the complainant and the committee.
  - c) **Investigation of the complaint** through an interview with the accused and (if necessary) with others who may have relevant information. (see paragraphs 4.4 to 4.23)
  - d) **Ongoing support for the accused.** The committee will ensure that the accused has a support person who is not a member of the sexual abuse protocol committee. This support person will represent the needs of the accused to the Church authority and ensure that the accused receives appropriate ongoing care and support. The support person will also assist with communication between the accused, the committee and the Church authority.

#### 4. PROCEDURES

- 4.1 The general outline of the procedures to be followed upon notification of a complaint is given in Figure One below. A more detailed schema of the procedure is given for the guidance of the committee in Appendix Four.

Figure One



## 4.2 Receiving the complaint

Upon being notified that some-one wished to make a complaint of sexual abuse against a cleric or religious, the committee will arrange for a preliminary interview with the complainant to establish details of the allegations. The interview should be conducted by two people. The make up of the team (e.g. gender, ethnicity) should be determined by the needs of the case. The complainant will be invited to have a support person present at the interview.

- 4.2.1 If after interviewing the complainant or having received a report of this interview from the investigators the committee comes to the conclusion that the complaint has substance, the church authority will be advised immediately and the accused notified that a complaint has been made. For any complaints received after 1 September 2009, a copy of the complaint will be forwarded to the National Director, NOPS.
- 4.2.2 At any point in the process, if the church authority, on advice from the committee, forms the opinion that there may be a risk of further harm to a person, the authority will then arrange for the accused to take leave from his/her position or ministry immediately until it is ascertained that there is no risk. If guilt has been admitted or proved, the church's response must be appropriate to the seriousness of what has happened. Serious offenders will not be given back the power they have abused.
- 4.2.3 In making a recommendation as to whether or not the accused should take leave immediately from his/her position or ministry, the committee shall have regards to:
- the credibility of the complainant and any witnesses.
  - whether or not there are other complaints against the accused.(previously made or concurrent)
  - corroboration.
  - the seriousness of the complaint e.g. rape, child abuse.
  - the current position held by the accused.
  - such other factors as the committee thinks fit.
- 4.3 At interview, and as far as possible on first contact, the person making the complaint should be assured of the following:
- (a) The Church takes complaints of this nature seriously and they will carefully and objectively be investigated.
  - (b) The Church is concerned for the welfare of the victim, the family, and others affected.



- (c) Advice will be given regarding the availability of counselling or therapy<sup>8</sup>.
- (d) They will be kept informed of the progress of the investigation
- (e) Confidentiality will be respected; however, this confidentiality may be limited as the sexual abuse protocol committee and people interviewed during the investigation will need to be advised some details of the complaint. Also, privacy laws require that persons have a right to know what information concerning them is being kept. Therefore an interviewer should not provide an undertaking that any statement will remain confidential.
- (f) Justice requires that the accused be heard. If the complainant has written a letter of complaint or signed a statement or transcript of an interview and the committee subsequently decides to interview the accused, then the complainant should be told that the letter, statement or transcript will be shown to the accused. The implications should be discussed with the complainant who will also be told that the accused will be informed of his or her identity.
- (g) The complainant always retains the right to have recourse to the civil authority. If he/she does refer the complaint to the civil authorities the role of the Sexual Abuse Protocol Committee ceases while this is going on. The committee will immediately suspend its proceedings so as not to interfere or obstruct the operation of any relevant agency of the secular law. A complainant may nominate a lawyer to act as a support person. The role of the lawyer should be clarified before the interview commences. If the lawyer intends to commence civil legal proceedings, the interview should not take place and the committee should suspend further proceedings and consult their legal advisor. On the other hand, if the complainant and lawyer intend to co-operate with the processes involved in *Te Houhanga Rongo-A Path to Healing* the committee can continue with its investigation.
- (h) The committee will not act in a way that will prejudice the process of the law.
- (i) If the complaint is made against a person who is no longer a priest or religious, every attempt will be made to investigate

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<sup>8</sup> The local ACC office should have a list of approved psychotherapists and counsellors qualified to deal with recovery from sexual abuse. A complainant should be advised that ACC is the appropriate authority from which to seek professional counselling in the first instance.

the matter thoroughly but the church has no power to compel compliance and cooperation. There may be a limit to what can be achieved if the accused cannot be found, is dead, or declines to cooperate.

- (j) There will be a report back to the complainant following the investigation of the complaint.
- (k) In consultation with the National Director, National Office for Professional Standards (NOPS), the committee will appoint an investigator and an assistant to investigate the complaint. These people may need to speak to the complainant at some stage.
- (l) If the complainant is not satisfied with the outcome, he/she may request an independent review of the process to the National Director: National Office for Professional Standards. (see paragraph 6 for details to be included in the request for a review)

- 4.4 A compassionate response to the complainant must be the first priority. However, a thorough investigation is also required to ensure that the church authority's response is based on justice and fairness to all parties.

If a committee decides that the complaint requires investigation, action shall be taken in three distinct phases:

- investigation
- assessment
- resolution

#### **4.4.1 Investigation phase**

The committee should appoint an investigator (and assistant). The appointments should reflect consideration of gender and ethnicity as appropriate. Terms of reference should be provided indicating that the investigator is to conduct an investigation and indicate an opinion as to whether or not the complaint is proven, based on the evidence. The investigator (and assistant) may be persons who are not committee members, but if they are committee members, they should not take part in the assessment phase of this complaint.

An investigator should be trained as an investigator. The assistant may be a counsellor or have pastoral experience to provide an opportunity to combine the investigation and pastoral approaches. The investigation should be completed within a specified time frame with a report to the committee. An investigator should be asked to declare any conflict of interest in a particular case. Normally, this person would not

then be suitable for that investigation if there was a conflict of interest.

The National Director, National Office for Professional Standards (NOPS) may discuss the case or any aspect of it with the delegate or investigator at any time,

#### **4.4.2 Assessment phase**

The committee (excluding the investigator and assistant) should act as assessors by receiving and considering the report. If they need clarification or further enquiries to be carried out they should ask the investigator and assistant to advise them or complete the investigation.

The committee is then required to make recommendations to the Bishop or Congregational Leader (see paragraph 5.15 for matters to be included in the report). Minutes should be kept to record the roles carried out by members of the committee and the members who are making recommendations to the Bishop or Congregational Leader etc.

#### **4.4.3 Resolution phase**

The Bishop or Congregational Leader is responsible for determining the resolution of the complaint.

### **4.5 Conducting an Investigation**

#### **4.5.1 Interviewing the complainant**

The investigator and assistant should seek an interview with the complainant who will be invited to have a support person present. If these details have not already been obtained, the interview should include the following:

- a description of all the incidents of sexual abuse which are alleged against any cleric or religious in the Catholic church.
- the place of each event.
- the date of each event (if this is unclear, the approximate week, month or year)
- length and frequency of abuse occurring
- a description of the physical, behavioural, emotional mental or psychological consequences of the incidents.
- any corroborative person available.

(It is important to receive all allegations against clergy or religious in the Catholic Church to avoid multiple investigations being conducted and multiple claims in respect of the same injuries or psychological consequences. Liaison with other dioceses or

congregations is required if complaints are made in respect of their members)

- 4.5.2 If a complainant requires assistance either to make or to articulate a complaint then the investigator will ensure that a suitably skilled person provides that assistance.
- 4.5.3 The interviewer should ask for written authorisation from the complainant for the committee to proceed to deal with the complaint on the complainant's behalf<sup>9</sup>. This will involve an investigation where not only the complainant will be spoken to but also others who may be able to help (see e.g. 4.6). It should be suggested to the complainant at first contact that he or she may like to compile a written report containing times, dates, precise details of incidents. To do this is usually healing in itself, clarifies the memories, and it will be helpful to the investigators. It can also be easier for the complainant to hand over a report to be read than to tell the story orally to strangers.
- 4.5.4 If a complaint has not been received in written form, a factual account of the initial interview at which the complaint is received should be written by the interviewers as soon as possible after the interview. One option is to tape record the interview with the complainant's consent. The report or a transcript of the tape recorded interview should be shown to the complainant who will be asked to sign it as an accurate account of what the complainant is alleging.
- 4.5.5 The complainant should also be asked whether or not he/she has told some-one about the incident. If so, when and under what circumstances. Also the complainant should be asked if he/she agrees to that person or persons being interviewed. If he/she does not agree this should be noted.
- 4.5.6 An interview with a child victim should be conducted only by persons recognised as skilled practitioners in interviewing children<sup>10</sup>.  
If a child does disclose an allegation of abuse in a context which is not a formal interview, the adult should note down exactly what the child said. Words must not be put into a child's mouth, and it should not be suggested that he or she has been abused. The consent of the child's parent or

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<sup>9</sup> Appendix Two contains an example of a form which could be used for this purpose.

<sup>10</sup> The New Zealand Child Youth and Family have skilled and experienced interviewers of children. Whenever appropriate their services should be used.

guardian should be sought before a formal interview takes place with a suitable skilled practitioner. If a child is disclosing a criminal offence by an accused person who is still alive, this is normally a matter for the police.

#### **4.6 Further enquiries**

The investigator may consider it appropriate to make further enquiries in order to corroborate or clarify the substance of the complaint. With the complainant's knowledge and consent, enquiries may be appropriate with some or all of the following:

- families and friends.
- people who have been told by the complainant of the incident or offence.
- people who may have witnessed the incidents or the events, or witnessed what occurred immediately before or after the event; or other relevant behaviour.
- school teachers, classmates or others, who may have noticed a change in the complainant's behaviour, following or during, the alleged period of abuse.
- doctors or other professionals, who have treated the complainant, and may be able to provide corroboration or relevant information.
- administrators in parishes or orders who can provide records of the dates of ministry in the locality by an accused person.
- any other person with relevant information.

The complainant should be advised not to contact such persons first as this may (inadvertently) influence the evidence they will give to the investigators.

- 4.7 Because of the obligations of the sacramental seal at no time during the investigation of a complaint should the Church authority or any priest on the Sexual Abuse Protocol Committee or any priest involved in the investigation hear the sacramental confession of the accused.

#### **4.8 Prior to formal interview with the accused**

Once the committee has concluded there is substance in the complaint, the accused needs to be interviewed. The accused should be notified as soon as possible that a complaint has been made against him/her. This should be done by letter, preferably hand delivered by the delegate in person or by the investigator appointed by the delegate. Notification of the complaint should be kept separate from the formal interview with the accused.

- 4.9 The accused is to be advised exactly what it is alleged to have been done. At the same time he/she is also to be advised of the right to have legal (canonical and civil) counsel and of the right in law to remain silent. The accused may initiate a canonical process if he/she wishes to do so. The accused is also to be informed that in both civil and church law a person is presumed innocent until proven guilty. The accused must also be directed to have no contact whatsoever with the complainant, alleged victim, or family and friends of the complainant or victim, while the allegation is being investigated.

#### **4.10 Interview with the accused**

The formal interview should be conducted by the investigator and one other person. Under current Canon Law, if the accused is a priest or religious person, one of the interviewers must be a priest.

- 4.11 The accused will be invited to have a support person present at the interview, if he/she so wishes.
- 4.12 At the start of the interview the accused should again be informed of his/her rights. If the accused then chooses to have legal counsel, the interview will be suspended until such time as the counsel can be present.
- 4.13 The expenses of legal counsel should normally be met by the accused. However, if the accused is a religious, they will be met by the congregation. If the accused is a diocesan priest and it is clear that he personally cannot afford legal counsel, then the diocese will make some arrangement with him to cover reasonable costs during the investigative process.
- 4.14 The accused has a right to know the identity of the complainant and exactly what has been alleged. If the complainant has made a written allegation or has signed a transcript of a taped interview, the accused should be shown it.
- 4.15 The accused should be invited to respond to the allegations but is not bound to do so, nor may an oath be administered. The investigators/interviewers will receive from the accused (either personally or through a representative) any explanation or account of

events which he/she may wish to make. One option is to tape record the interview with the approval of the accused. Otherwise, the accused's (or his/her representative's) exact words should be written down (as accurately as possible). The tape recorded transcript or the statement should be signed by the accused as a true record, and retained as part of the process. The accused must be advised that the complainant may view this document on request (section 6 - Information Privacy Principles- Privacy Act 1993) It should be pointed out that this document might be seen by others if the matter becomes a civil/criminal complaint. Should the accused decline to sign, this should be noted on the document.

- 4.16 If the accused admits the truth of the allegations or part/some of the allegations:
- he/she should be advised that as part of the process of bringing the matter to resolution he/she may be asked to undergo a psychological or psychiatric assessment and any recommended treatment.
  - the interviewers will convey the admission to the committee as part of their report.
- 4.17 If the accused denies the allegation, it may be necessary to offer him/her the opportunity to provide corroboration or support for that position. Great prudence and sensitivity is needed in this situation. The privacy laws of New Zealand, the accused's right to his/her good name, and the fact that the Sexual Abuse Protocol Committee does not have statutory investigative power all mean that the consent of the accused will be required before other persons can be interviewed to corroborate or support the accused's testimony. The accused should be advised not to contact such persons first as this may (inadvertently) influence the evidence they will give to the investigators.
- 4.18 If the accused denies the allegation and is unwilling to have other persons interviewed who may corroborate his/her position, or there is no evidence available due to the passage of time, then it may be necessary for the investigators to have recourse to the complainant again. In this situation the complainant should be told that the accused denies the allegation. The complainant may have already provided information about other persons who could give corroborating evidence on his/her behalf. However, this is another opportunity for the complainant to provide further information which would help to establish the truth of his/her complaint.
- 4.19 The investigators must record as accurately as possible the statement of any person being interviewed. This may be by tape recording or writing down the response of the interviewee. The interviewee should then be invited to sign his/her statement or a transcript of the tape

recording. If an interviewee declines to sign for whatever reason, this should be noted in the report.

4.20 At the conclusion of all interviews – of the complainant, the accused, and any corroborative witnesses - a factual report should be written by the investigators and then given to the delegate and the committee.

4.21 It is not appropriate that the church be conducting its own proceedings (either through a canonical process or through the Sexual Abuse Protocol Committee) at the same time as any secular proceedings (criminal or civil). Therefore, if a police investigation is underway or a civil process has been initiated, the committee should suspend its own proceedings until the secular process then as a general rule, is complete. The parties should be advised of this.

#### **4.22 Issues to consider if the accused is deceased**

If the accused is deceased, great care must be taken to carry out all enquiries thoroughly. There will be some occasions where it is unsafe to draw any conclusions. On other occasions, it will be possible to determine whether or not a complaint has been proven. Matters of particular importance are:

- the credibility of the complainant and the witnesses.

- whether or not the complainant reported the offence or told anybody at a time closer to the offence. If he/she did not report it he/she should be able to explain the reason. (Note: In historical complaints, there may well be valid reasons why offences were not reported. A complainant should not be automatically discredited, particularly if he/she can explain why he/she believed it was inappropriate to report the matter sooner)

- whether or not there have been other similar complaints against the accused.

- Corroboration from any source, e.g. medical records, witnesses who saw the alleged offence or events immediately before or after the alleged offence, or can provide other relevant information.

- Church or other records which may show whether or not the accused was ministering in the locality at the time.

#### **4.23 Findings/Conclusions**

The committee must weigh all the evidence received from the investigators and come to a conclusion, on the balance of probabilities, whether or not the complaint is proven.

### **5. BRINGING A CASE TO RESOLUTION**

5.1 A complaint may be brought to resolution in one of the following ways:



- (a) The accused admits guilt.
- (b) Guilt has been proven by the evidence adduced in the investigation.
- (c) The complaint is not proven

## **5.2 WHEN GUILT IS ADMITTED OR PROVEN (paragraphs 5.2 to 5.20 apply)**

If the accused admits guilt or it is proven against him/her, the committee is required to report to the Bishop or Congregational Leader (see paragraph 5.15). The Bishop or Congregational Leader may ask the committee to assist in bringing the complaint to resolution as soon as practical. Primary concerns of the committee at this stage should be healing for the victim and recovery (as far as possible) from the harmful effects of the abuse. The needs and concerns of the complainant are of primary importance and must always be listened to with respect-even when they cannot be met in full.

- 5.3 Other concerns should be an appropriate response to the offender,(which includes the removal of risk to others and reducing the risk of re-offending) attending to the needs of others affected by the offending (for example, family of victim, parish community, religious congregation, school etc) putting into place procedures and safeguards to lessen the risk of similar offending by others, and ultimately the healing of all parties affected by the abuse.
- 5.4 The delegate shall seek to know the ongoing needs of the complainant as a result of the harm done and what expectations he/she has of the church authority with awareness that these may evolve over time. The delegate will also seek to know the needs of the victim's family and of the community in whose midst the abuse occurred.
- 5.5 Among the needs a complainant may have is the need of expert help to assist with healing and coming to terms with what has happened. He/She may need counselling or psychotherapy. The committee should have available a list of suitable counsellors and psychotherapists that can be recommended should the complainant request it.<sup>11</sup> Advice that there may be an entitlement to payment of counselling expenses under the ACC provisions should be given. Tact and sensitivity will be needed in suggesting the availability of such resources, lest the complainant take offence at the mere suggestion that he/she may need therapy.

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<sup>11</sup> The local ACC office should have a list of approved counsellors and psychotherapists qualified to deal with recovery from sexual abuse.

- 5.6 The choice of a counsellor or therapist should be left to the complainant, who should not be required to choose someone on the committee's list of recommended personnel. Unless the committee has definite objections with regard to the professional competence of the person chosen, the committee should agree to the complainant's choice. However, if the complainant intends to make a claim through ACC, he/she should ensure that ACC approves of the counsellor or therapist and agrees to pay for the course.
- 5.7 If ACC does not meet the costs of a course of counselling or psychotherapy or meets only some of the costs, the committee should not offer to meet the costs (in whole or part) without approval of the church authority. In the first instance the offender should be asked to pay. However, if it is unlikely that the offender will be able to meet the costs (e.g. if she/he is a religious with a vow of poverty), then a recommendation to the appropriate Church authority should be made to the effect that the costs (in whole or part) should be met by the diocese or the religious congregation.
- 5.8 If the committee agrees to recommend that a course of counselling or psychotherapy be undertaken at the offender's or Church authority's expense, then the committee should recommend or agree to a specific number of visits or a fixed time period initially. Neither the cost nor the length of the course should be left open-ended. It may be possible to suggest that if at the end of the agreed course there is still more work to be done, the complainant could then negotiate with the church authority through the Sexual Abuse Protocol Committee for an extension of the agreement for a further period or number of sessions.
- 5.9 A recommendation to the church authority may include counselling or psychotherapy for others besides the victims who have been affected by the abuse (e.g. the family of the victim). The conditions should be similar to those given above.
- 5.10 Sometimes a complainant asks for an apology from the offender. This is a reasonable request, but it is not always possible. To be genuine, an apology has to be freely given and from a sense of remorse for harm done. The offender cannot be forced to make an apology, even when he/she has admitted guilt.

If a written apology is asked for, the situation is even more difficult. A person may consider it unreasonable to be asked to make a written statement that could incriminate him/her in a court of law or be used against him/her in a civil suit-even if the complainant at the time has no intention of going to the police or pursuing the matter through the courts. In these circumstances an alternative to a written apology might be possible-perhaps a verbal apology (if the complainant is prepared to

meet the offender in person) or an apology mediated through a member of the committee or an acceptable third party.

A complainant may also seek an apology from the church authority. If the accused denies the allegation, there must be caution in offering an apology which infers an acknowledgement of guilt. If necessary, legal advice should be sought in framing an appropriate response to the complainant.

### **5.11 Restorative justice**

A situation where an offender is willing to make an apology and a victim is ready to receive it may be the start of a restorative justice process. Restorative justice is a biblical set of principles that encourages an offender to make things right with his/her victim after a crime has occurred.

5.12 Restoration of victims and offenders becomes a goal, something to strive for. Communities are also injured by crime and need restoration.<sup>12</sup>

5.13 It is essential that the victim and offender are willing participants. A competent and experienced facilitator should be used to conduct a reconciliation meeting. Offenders could be serving a prison term or may have been released. Restorative justice could apply to an offence committed 30 years ago or very recently. The offender must be willing to apologise and make things right. The victim must also be ready to move forward.

5.14 Sometimes a complainant asks for compensation/recompense. The following considerations should be borne in mind:

- (a) The primary concerns of the committee should be directed towards healing and reconciliation, not compensation, punishment or penalty.
- (b) The committee is not a court of law and should not assume the functions of a court of law.
- (c) The Accident Compensation Act in New Zealand is designed to bring quick relief to those who suffer from accident and remove the need for costly and time-consuming legal action for redress. The Sexual Abuse Protocol Committee should be careful lest they are seen to be acting contrary to the intent of the law.
- (d) Victims of sexual abuse should be encouraged and assisted to seek what they are entitled to under ACC law.

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<sup>12</sup> Lisa Rae- The Justice and Reconciliation Project USA paper entitled "Commentary: Catholic Church and the Sexual Abuse Scandals. An open letter to the US Catholic Bishops"-March 2003

- (e) In recent years the courts have allowed victims of abuse to sue for “exemplary” damages. If the request for compensation is equivalent to suing for exemplary damages, then the complainant should be advised to seek independent legal advice.
- (f) If in a particular case the committee considers that compensation, e.g. for counselling fees, may be warranted, it should more appropriately be required of the offender than of the Church authority—unless the case has revealed that the Church authority has to share responsibility for what has happened.
- (g) Moreover, if the committee decided that a request for monetary recompense may be justified, the committee should make a recommendation to the church authority (see paragraph 5.15). A knowledgeable and experienced lawyer may be consulted by the church authority to advise an appropriate amount of money which should generally not exceed what the complainant probably would have received if the case had been pursued through the civil courts.

When payment is made, the complainant should be required to sign a full and final deed of settlement. To ensure that all claims against any diocese or congregation are included, the deed should include the following clause:

“The complainant acknowledges that he/she has no other existing claim for any form of abuse or its consequences (which he/she has made or might make) against the church, its Bishops or any member of a religious congregation of the Catholic church in New Zealand.”

The deed should be drawn up by a knowledgeable and experienced lawyer.

5.15 The decision as to what form of resolution follows is a decision of the church authority. The Sexual Abuse Protocol Committee shall make recommendations to the Bishop or Congregational Leader with regard to the resolution of the complaint, including:

- i.** Whether the complaint is proven;
- ii.** A suitable way of acknowledging and/or apologising for a proven complaint;
- iii.** What support and assistance is needed by the complainant/victim and the victim’s family or friends;
- iv.** What penalty (if appropriate) and what restitution is needed, for healing;
- v.** What support, treatment or rehabilitation is needed by the accused;

- vi. Any shortcomings in Church structures or procedures which the case has revealed and which should be remedied to help avoid further offences;
- vii. Any other matter relevant to the complaint.

- 5.16 The committee should recommend those things which promote healing, restoration to wholeness of life, and a lessening of the damage sustained by the abuse.
- 5.17 The Church Authority may wish to resolve matters directly with the complainant or may ask the delegate and the committee to act on its behalf. If the committee is asked to do so, the delegate will see to it that the result of the investigation and a response of the Bishop or Congregational Leader are made known to the complainant as soon as is reasonably possible.
- 5.18 Once the church authority has decided the complaint is proven and resolution is required, the complainant will be invited to meet with the church authority or delegate and/or members of the committee to discuss a fair resolution of the complaint. The complainant may have a support person present, if he/she wishes it. When the alleged offender is a member of a religious congregation, the religious delegate should also be present.
- 5.19 The Church Authority or delegate will inform the complainant of the Church Authority's response to the needs and expectations of the complainant, and will attempt to bring about a resolution.
- 5.20 If the complainant is not satisfied with the response received, the Church Authority may ask the delegate to seek to identify the outstanding issues and explore with the Church Authority and the complainant the best means of resolving these issues. The complainant should also be advised of the review of process (para 6 below).

**5.21 WHERE GUILT IS NOT PROVEN  
(paragraphs 5.21 and 5.22 apply)**

If the accused denies the allegations and the complaint is not proven (based on the investigation), the Church Authority, the accused and the complainant are to be advised. Of particular importance is the protection of the reputation of the accused person and this should be discussed with him/her to ensure that he/she understands the process that has been undertaken and that his/her good name and reputation will be upheld.

- 5.22 On some occasions the accused may be vindicated by the evidence establishing that he/she is innocent. Full support, including counselling and ministry, should be made available as this will have been a time of

great stress. If appropriate, the complainant may also be offered ongoing pastoral support.

## **6 REVIEW OF PROCESS**

6.1 A review of process is available if either the complainant or the accused is not satisfied with the investigation or decisions taken by the relevant church authority in relation to any aspect of the complaint. Also a Sexual Abuse Protocol Committee may request a review on its own volition.

6.2 The review of process is an independent evaluation, not only of whether the procedures set out in this document have been properly observed, but also of whether the principles established in the first part of the document have been adhered to.

6.3 A review should normally be requested within three months of the complainant or accused receiving notification of the outcome of the complaint

6.4 A person requesting a review should provide written reasons for his or her dissatisfaction with the process. (If a person needs assistance to meet this requirement, he or she should advise the National Director, National Office for Professional Standards, who will arrange for assistance to be provided.)

6.5 Reviews will be undertaken by the National Director, National Office for Professional Standards for all cases in which the National Director has had no previous involvement. If, for any reason, a particular review cannot be undertaken by the National Director, it will be the responsibility of the National Director to appoint another appropriately skilled person to conduct the review.

6.6 Reviewers should be chosen for their professional competence and be publicly recognised as being impartial and independent.

6.7 The delegate shall inform the relevant church authority and the complainant that a review of process has been requested.

### **6.8 Conduct of the review**

6.9 The reviewer will determine the procedures for the conduct of the review

6.10 The reviewer will have authority to interview all church personnel concerned and will have access to all relevant documentation.

6.11 The reviewer should conduct the review expeditiously. If the review exceeds a month, the reviewer should advise the delegate and

complainant of the progress being made and likely time frame for completion.

- 6.12 At the end of the review, the reviewer will give a draft written report to the delegate to check for factual accuracy.
- 6.13 After considering any comments provided by the delegate, the reviewer will prepare the final report with recommendations to the delegate and a copy to the complainant.
- 6.14 The delegate will give a copy of the final report to the relevant church authority. As soon as convenient, the delegate will discuss with all parties the implementation of the recommendations.
- 6.15 When the review is conducted by the National Director: National Office for Professional Standards, or by another person appointed by the Director, the National Office will bear the costs of the review of process.

## **7. KEEPING OF RECORDS**

- 7.1 New Zealand has strict privacy laws and persons have a right to know what information concerning them is being kept in an archive. Therefore, when an investigator is obtaining statements or information from any person, the investigator should not provide an undertaking that the statement or information will remain confidential.
- 7.2 Once a case has been concluded, there must be a good reason for documents to be retained. Experience has shown that sometimes further complaints are made against the same accused person and this can be many years after the original complaint. This amounts to a good reason to ensure all documents are retained as they are likely to be relevant if further complaints are made.
- 7.3 As a general rule, all documents should be retained in the committee's secure archive for a minimum of 30 years after a complaint is received.
- 7.4 Both the complainant and accused have the right to know which documents concerning them personally are being retained. This information does not have to be volunteered, but if asked for, should be given. The complainant is entitled to receive copies of the documents he/she has signed.
- 7.5 The complainant and the accused should be informed that the records will be retained for a minimum of 30 years from the time the complaint was received.

## 8. OUTCOMES RELATING TO THE ACCUSED

- 8.1 If the complaint is not resolved, either through the processes of civil law or through an investigation by the Sexual Abuse Protocol Committee, the Church authority must decide whether it is appropriate for the respondent to continue in ministry or return to ministry while the doubt remains.
- 8.2 If it has been discovered that the accused is guilty of sexual abuse, the Church authority will take such action as the situation and the seriousness of the offence demand. This will mean that if the offender has abused the power given by a ministerial position, that power will not be given back. If he is a cleric, it could also include a request that he apply to return to the lay state, or even the commencement of a canonical penal process in accordance with canons 1717-1731.
- 8.2.1 The Church authority will require the offender to address the issue of restitution to the victim and to the Church community.
- 8.3 Only the bishop can decide whether or not a priest or religious convicted of sexual abuse can resume public ministry in his diocese. Each case has to be decided individually. Important factors to be taken into consideration are:
- a) what is the risk of re-offending?
  - b) has the offender undergone treatment for the disorder?
  - c) if so, what is the diagnosis and prognosis, and what is the opinion of those who supervised the treatment?
  - d) what is the opinion of the victim?
  - e) what is the informed opinion of the bishop's council of priests? Of the other priests of the diocese? Or in the case of a religious, of the congregational leader or the other members of the religious congregation?
  - f) what is the informed opinion of a representative body of lay persons (e.g. a diocesan pastoral council, or the parish council of the parish community in which the offender would be ministering if re-entry is permitted)?
- 8.4 Moreover, in order to re-admit an offender to public ministry the bishop would have to be satisfied that:



- a) the offender has recognised and accepted the problem and that he or she is willing to receive treatment for the problem (if they have not already done so).
- b) there will be adequate probation time between any period of imprisonment (or other penal sanction) and eventual acceptance for re-entry;
- c) an effective system of monitoring and supervision will be put in place; as detailed in “Psychotherapists’ Sexual Involvement with Clients: Intervention and Prevention”<sup>13</sup>
- d) support groups and after-care programmes are available in the diocese which can and will provide continuing support and guidance to the offender; an example is the STOP programme.
- e) any ministerial assignment will not bring the priest or religious into contact with potential victims (e.g. individuals or groups with characteristics similar to the previous victims).

8.5 If the Church authority judges that the offence is such that a return to ministry is not an option, or if the offender does not meet the conditions necessary for a return to pastoral ministry, then he or she should be clearly told so. The Church authority should, either in person or through a representative, meet with the offender to discuss honestly and openly his or her future options. The offender is entitled to be accompanied by a support person and/or legal representative.

8.5.1 The options include the following:

- a) to remain as a priest or religious under a formal prohibition of exercising any pastoral ministry whatsoever;
- b) to retire, if they have reached the age to do so;
- c) to ask for laicisation voluntarily;
- d) to accept canonical penal proceedings which could result in being removed from the clerical state.

8.6 If a police investigation and/or a church investigation make it clear that the accused is innocent of the alleged offence, the Church authority will take whatever steps are appropriate to vindicate the reputation of the accused.

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<sup>13</sup> Schoener, G.R. et al. Walk-In Counselling Center, Minneapolis, Minnesota (1990)

## 9. OTHER PERSONS AFFECTED

- 9.1 Pastoral concern should be shown towards all those besides the victim who are affected when a priest or religious is known to be guilty of sexual abuse. The family and close friends of the victim are most obviously affected. But also the parish or school community in which the offender worked, the family and friends of the offender, his brother priests in the diocese, the religious community (both local and provincial) if the offender is a religious – all in varying degrees and ways suffer when a priest or religious is guilty of sexual misconduct.
- 9.2 Prompt and appropriate assistance must be offered to family and friends of the victim. They should be consulted with regard to their needs and the Church authority should endeavour to meet them as far as reasonably possible and the way left open for further approaches should help be needed after the conclusion of the process.
- 9.3 Similarly prompt and appropriate assistance should be offered to the family and close friends of the offender, who often don't know how to relate appropriately to the offender, once they know what has been done. The Church authority or delegate should make sure that a suitable person contacts the offender's family and close associates promptly once the offence is known and hears their concerns and offers support.
- 9.4 The effects on a parish community when their priest is accused of sexual abuse can be devastating – leading to confusion, loss of confidence and trust in Church authority, and even deep divisions within the parish. An appropriate pastoral response should be provided promptly, with due regard to the right of privacy of those directly involved, and to the administration of justice.
- 9.4.1 It would very often be appropriate for the bishop himself to visit the parish and listen to, and address as far as he can, the needs and concerns of the parishioners.
- 9.4.2 Based on the needs expressed by the people during this visit, a programme of pastoral support and spiritual renewal for the parish should be jointly prepared by the bishop, the replacement priest and the parish pastoral council.<sup>14</sup>
- 9.5 When the offender has been exercising ministry in a Catholic school, the effects can be similarly devastating. The board of proprietors and the board of trustees should have in place appropriate policies for dealing with this kind of situation. It may also be appropriate for the bishop or congregational leader (when the offender is a member of a religious

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<sup>14</sup> Further advice on appropriate assistance for parishes is given in paragraph, nn.10.1 – 10.7.

congregation) to visit the school community as soon as possible after the offence has become known.

- 9.6 If the offender is a religious, both the local and provincial community, are affected by the accusations. It is important that the congregational leader give the community, as far as possible, and within the bounds permitted by the Privacy Act, accurate information as to who is accused and the nature of the accusation, particularly if it is likely that the allegations will be published in the media. The congregational leader should also visit promptly the local community in which the accused was living to allow the members to express their feelings and to encourage them for the future.

## **10. PREVENTATIVE STRATEGIES**

- 10.1 Each Church authority should ensure that all Church personnel are made aware of the seriousness of sexual abuse and of the professional boundaries that must be observed in the conduct of ministry and pastoral practice. They should be warned of behaviour that is inappropriate or which crosses professional boundaries. There must be explicit training as to what constitutes unacceptable behaviour.
- 10.2 Whenever a Church authority is concerned about the behaviour of a priest or religious, this concern should be brought to the attention of that person and appropriate steps taken to determine whether the behaviour is the symptom of a deeper problem requiring attention.
- 10.3 Priests and religious who feel that they might be in danger of committing sexual abuse should be offered opportunities to seek both spiritual and psychological assistance before the problem becomes unmanageable and they offend. Names of suitable therapists and treatment programmes should be readily available.
- 10.4 Whenever a priest or religious makes a request to transfer from one diocese or congregation to another, or to carry out an apostolate in another diocese or religious province, the appropriate Church authority should inquire explicitly of him or her whether there has been a complaint of sexual abuse against him or her or he or she knows of any circumstances that could lead to a complaint of sexual abuse against him or her.
- 10.4.1 Similarly the same Church authority should request from the bishop or congregational leader in the diocese or congregation where the priest or religious previously lived and worked, a statement in writing that they are not aware of any complaint of sexual abuse having been made or any circumstances that could lead to a complaint of sexual abuse.

- 10.4.2 When a religious priest is being transferred by his congregational leader from one diocese to another, a request for a reference from the congregational leader, which explicitly addresses the question of a complaint of sexual abuse, should be included in the normal procedure leading to the granting of diocesan faculties. A similar reference should also be required from the diocese of origin when a diocesan priest is transferring from one diocese to another.
- 10.4.3 Congregational leaders should also review their procedures for accepting religious of their congregation coming from other countries to reside in a New Zealand community or to take up a ministry in New Zealand. Clearance such as is suggested in 10.4.2 should be sought and obtained.
- 10.5 All vocation directors and directors of formation are required to have adequate in depth education about and understanding of the serious consequences of sexual abuse, particularly sexual abuse involving children. They should be aware of the indicators of this problem and of the high risk of repeated offending. This issue should be considered regularly at conferences and meetings of vocations directors and formation personnel.
- 10.6 Before candidates are accepted into a seminary or religious institute, they are to be asked to undergo a psychosexual assessment conducted by a competent professional. They should also be asked explicitly whether or not there are any circumstances which have or could lead to a complaint of sexual abuse against them.
- 10.6.1 While due process must be observed, any serious incident of proven sexual abuse will lead to the dismissal of a seminarian from a seminary or a candidate from a congregation's programme of formation. This includes any incident which may have occurred before the candidate entered the seminary or formation programme.
- 10.7 Church bodies, especially those involved in providing care for children, must have in place procedures, consistent with good employment practice and the privacy laws of New Zealand, for checking references and verifying the suitability of persons for employment.
- 10.8 Church authorities shall be honest and frank in giving or writing references and shall not act in a way which would allow an offender to be placed in a position where others might be at risk.
- 10.9 Each Church authority shall provide in-service programmes for clergy and religious to inform them of the principles and procedures set down in this document.

## 11. CONCLUSION

- 11.1 The problem of sexual abuse is not a problem which belongs simply to the bishops and congregational leaders. It is a problem which confronts the whole Church community and which must be addressed in a sensitive and effective manner.
- 11.2 This document provides a basic framework to deal with complaints of sexual abuse. It will not solve the problem and it does not mean that further investigation, research and education is not required. All members of the Church should be aware of this document and of the availability of prompt and effective assistance to deal with any complaint of sexual abuse.

***Here follows a list of Bishops of New Zealand who accept this Protocol.***

+ Denis Browne  
Bishop of Hamilton  
President, NZCBC

+ John Dew  
Archbishop of Wellington  
Secretary, NZCBC

+ Colin Campbell  
Bishop of Dunedin

+ Peter Cullinane  
Bishop of Palmerston North

+ Barry Jones  
Bishop of Christchurch

+ Patrick Dunn  
Bishop of Auckland

+ Robin Leamy  
Bishop Assistant in Auckland

***Here follows a list of New Zealand Congregations which accept this Protocol.***

Adorers of the Sacred Heart of Montmartre OSB  
 Assumptionist AA  
 Capuchin Friars OFMCap  
 Cenacle Sisters rc  
 Christian Brothers CFC  
 Cistercians OSCO  
 Columban Fathers  
 Congregation of Our Lady of the Missions RNDM  
 Carmelite Monastery (Auckland)  
 Daughters of Our Lady of Compassion DOLC  
 De La Salle Brothers FSC  
 Discalced Carmelite Nuns OCD (Christchurch)  
 Divine Word Missionaries SVD  
 Dominican Friars OP  
 Dominican Sisters OP  
 Franciscan Friars OFM  
 Hospitaller Brothers of St John of God OH  
 Little Company of Mary LCM  
 Little Sisters of the Assumption LSA  
 Little Sisters of the Poor LSP  
 Marist Brothers FMS  
 Marist Sisters SM  
 Mill Hill Missionaries MHM  
 Mission Society of the Philippines MSP  
 Missionaries of Charity MC  
 Missionary Sisters of St. Peter Claver SSPC  
 Missionary Sisters of the Society of Mary SMSM  
 Nga Whaea Atawhai O Aotearoa, Sisters of Mercy NZ RSM  
 Redemptorists CSSR  
 Religious of the Sacred Heart RSCJ  
 Rosminians IC  
 Sister Disciples of the Divine Master PDDM  
 Sisters of Nazareth CSN  
 Sisters of St. Brigid CSB  
 Sisters of St. Joseph of Cluny SJC  
 Sisters of St. Joseph, Whanganui RSJ  
 Sisters of St. Joseph of the Sacred Heart RSJ  
 Sisters of the Good Shepherd RGS  
 Sisters of the Holy Faith CHF  
 Sisters of the Presentation of the Blessed Virgin Mary PBVM  
 Society of Christ SCHR  
 Society of Mary SM  
 Workers of Christ the Worker WCW

and – New Zealand Catholic Education Office

# HANDBOOK

## MORE DETAILED GUIDELINES

### 1. THE DELEGATE

- 1.1 The delegate and deputy delegate should be carefully chosen and should undergo special preparation to ensure that they have the necessary skills, including an understanding of the dynamics of sexual abuse, of its impact on victims, and of clinical and public policy developments in this area. They should also have an understanding of the implications an allegation has for the person who is accused.
- 1.2 The delegate should be familiar with the treatment facilities available to victims of sexual abuse and with the assessment and treatment facilities available to people who offend through sexual abuse.
- 1.3 The delegate should also be familiar with the provisions of the Accident Compensation Act (ACC) in New Zealand law, and with procedures for gaining redress through the Act.
- 1.4 If the delegate and deputy delegate in a diocese are clerics, it is recommended that neither of them should also be the Judicial Vicar. If a process of canonical adjudication is later initiated, the person who carried out the preliminary inquiry cannot act as judge in the judicial process.<sup>15</sup>

### 2. SEXUAL ABUSE PROTOCOL COMMITTEE

- 2.1 The Sexual Abuse Protocol Committee must be able to act quickly and efficiently. Therefore, it should not be too large. Ideally it should be made up of about six members and be as diversified as possible. In addition to the delegate and the deputy, it should include a canon lawyer (if possible)<sup>16</sup>, a civil lawyer, and a psychologist or psychiatrist experienced in the treatment of those who have suffered sexual abuse, or a professional who has specialized in the treatment of persons who suffer from sexual integration disorders. It should have a balance of men and women

competent to deal with the complex issues involved in allegations of sexual abuse.<sup>17</sup>

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<sup>15</sup> Canon 1717, #3

<sup>16</sup> However, the canon lawyer should not be the Judicial Vicar of the diocese.

<sup>17</sup> Of course one person could carry several of the qualities described.

- 2.1.1 The committee should not include the diocesan bishop or any congregational leader.
- 2.2 The members of the committee should be available to be called together at short notice.
- 2.3 Appointment to the committee should be for a specific length of time, but renewable. In setting up the committee, the appointments should be of varying lengths of time, so that all the members do not finish their term of appointment at the same time. It is desirable that there be a continuity of membership so that a pool of expertise is established.
- 2.4 The committee should have available to itself resource persons who can be co-opted to the committee for particular cases and whose expertise can be readily available to the committee – for example, psychotherapists and counsellors skilled in dealing with matters of sexual abuse, doctors, lawyers, survivors of sexual abuse, persons skilled in the interviewing of children and emotionally traumatised persons, social workers (particularly with children), interpreters and persons skilled in understanding cultural differences.

### 3. CANONICAL MATTERS

- 3.1 An advantage of the procedure for receiving and dealing with complaints of sexual abuse (as outlined in Part Two of *Te Houhanga Rongo – A Path to Healing*) is that the proceedings of the Abuse Protocol Committee can be used as the **canonical preliminary inquiry** if a full canonical trial is requested or becomes necessary. This could be to the advantage of a complainant who may not then have to undergo the stress of repeating the testimony already given.
- 3.2 In order that the committee’s proceedings can be used in this way, care should be taken to ensure that the provisions of canon law in general are respected, and in particular that the accused person’s rights in canon law are not disregarded.
- 3.3 Moreover, in cases where the accused is a cleric, the “delegate” directing the proceedings (in the canonical sense) will also have to be a cleric.<sup>18</sup> Therefore, if the delegate in a diocese is a layperson or non-ordained religious and a case is received in which a cleric is accused of sexual abuse, a cleric should be appointed on an ad hoc basis to act as the delegate (in the canonical sense) of the bishop or congregational leader for this specific case. The bishop (or congregational leader, in cases where the

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<sup>18</sup> Cf. canon 483, #2 and recognized commentaries on this canon.



cleric is also a religious) should make the ad hoc appointment (on the recommendation of the diocesan Sexual Abuse Protocol Committee), since canonically the ad hoc delegate will be acting in their name and with their authority.

- 3.4 The delegate (in the canonical sense) should be careful to comply with the provisions of canon law relating to documents produced in the course of dealing with a complaint.<sup>19</sup>
- 3.5 A full account of the requirements of a canonical preliminary inquiry is given in Appendix One.

#### **4. RELATIONS WITH THE MEDIA**

- 4.1 As far as possible, all public statements should be handled by the National Catholic Communications Office, or by a competent person appointed by the church authority.
- 4.2 In cases where the Church authority appoints a particular person to handle relations with the media, the person should be adequately prepared for the task.<sup>20</sup> It is essential that the spokesperson have a full and accurate knowledge of the situation but be sensitive to the confidentiality to which people are entitled. If there is only one such spokesperson, confusion can be avoided and the information supplied will be kept within the legal limits when court proceedings are envisaged. The spokesperson should not normally be the delegate.
- 4.3 There will be openness and trust in relations with the media when both sides are guided by the following principles:
- acknowledging the right of the public to know what information of general nature is available;
  - protecting the right of the accused to a fair trial;
  - safeguarding the right of victims to maximum privacy;
  - safeguarding the right of the civil authority to initiate legal proceedings.
- 4.4 Neither the accused nor any member of the Abuse Protocol Committee should make any public statement about an allegation of sexual abuse.
- 4.5 Where legal proceedings have begun or are imminent no public statement should be made without first obtaining specific legal advice.

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<sup>19</sup> Cf. canons 1437 & 1472.

<sup>20</sup> For example, he or she should undertake a training programme in media relations with a professional media training organisation.

## 5. ASSISTANCE TO PARISHES

- 5.1 It is important that the diocesan bishop show particular pastoral concern for the suffering a parish community experiences when a priest or religious working in a parish is accused of sexual abuse. Although the bishop cannot reveal information that would prejudice possible legal proceedings nor speak of confidential details that rightfully remain private, nevertheless there is much that can be said to stop destructive rumours, to correct false impressions given by the media, and to allay unreasonable fears.
- 5.2 It is recommended that each diocese set up a **parish assistance team** to be “on call” when the need arises. This team should include people with experience in public relations, social work, group psychology, civil law and pastoral work. Whenever a situation of sexual abuse arises, the bishop or the delegate will contact the parish and advise the local leadership of the existence of this team.
- 5.3 The National Catholic Communications Office or the diocesan communications director should help the parish deal with any requests for statements from the media.
- 5.4 The psychological professionals and the pastoral and social workers on the team are to be available to attend parish meetings at which the parishioners will be able to process their hurt, anger and disappointment. Some of these sessions may need the presence of the bishop as well.
- 5.5 If the accused priest or religious is subject to criminal or civil processes, the civil lawyer on the team will be able to provide general information to the parishioners on the legal processes and any discussible information related to the case.
- 5.6 A process of reconciliation should be initiated as soon as appropriate.<sup>21</sup> If invited in, the Parish Assistance Team should meet without delay following the removal of the priest or religious. The Team is not designed to take over the leadership of the parish. Rather its task is to provide necessary professional help at a critical moment. The ultimate goal is to empower the parish leadership to take charge of its own recovery process.
- 5.7 The appointment of a successor to a priest who has abused is vitally important. The new parish priest should be made fully aware of what has

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<sup>21</sup> Although this process should not be unduly delayed, it may be necessary to allow sufficient time for the people to absorb what has happened, react and grieve, before a process of reconciliation can profitably be commenced.

happened in the parish and work with the parish assistance team and the parish pastoral council in assisting the healing process.

## **6. NON SEXUAL ABUSE**

Sometimes a person who is complaining of sexual abuse may include allegations about emotional or physical abuse. It is appropriate to include all the allegations in any investigation to gain a full understanding of all the alleged behaviour which may constitute abuse.

6.1 However, if a person complains only about physical abuse (harsh treatment) in the nature of corporal punishment at a school or institution, the following guidelines should apply.

**The complainant should be advised:**

- that his/her allegation may amount to an assault if the corporal punishment exceeded what was considered to be reasonable at the time. If he/she believes this to be so, he/she is recommended to report the matter to the police.
- until recent times, corporal punishment was approved by law and society and was practised in all schools and children's institutions. If the infliction of punishment has caused any long term effects, this is deeply regretted.
- allegations of historical corporal punishment are usually impossible to corroborate. The church is in a similar position to other public and private childcare institutions and cannot do more than express regret for behaviour that may well have been lawful and acceptable at the time.